IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	)	CASE NO. 1:14-CR-00241
Plaintiff	)	JUDGE BENITA Y. PEARSON
-vs-	)	
ALEXANDER J. CUCU	)	**DEFENDANT'S MEMORANDUM ON SUPERVISED RELEASE VIOLATION**
Defendant	)	

I. INTRODUCTION AND BACKGROUND

Alex Cucu was sentenced by this Court on January 8, 2015 to a period of 18 months imprisonment after pleading guilty to various criminal tax violations. In an effort to mitigate his sentence, Mr. Cucu borrowed funds to pay restitution to the IRS in the amount of approximately $140,000. In prison, Defendant Cucu was a compliant inmate, with no misconduct or discipline problems. As a result he was afforded good time credit and was accepted into the Bureau of Prisons' halfway house program.

Upon release from custody, Mr. Cucu was ordered to serve one year of supervised release which commenced April 14, 2016 and was to be terminated on April 13, 2017. On April 11, 2017, only two days before the end of supervised release, he was arrested at home in the early morning hours pursuant to a warrant issued by this Court pursuant to a violation report submitted by Probation Officer Lisa Surman. He appeared before Magistrate Judge Greenberg at which time the Government requested detention. Mr. Cucu was then incarcerated at the Northeast Ohio

Correctional Center until the probable cause hearing before Magistrate Judge Burke on April 14, 2017.

At that hearing, Defendant was informed that the Government would not be pursuing Violation Number 2 previously characterized as a new law violation. Apparently the prosecutor of Willoughby Hills informed Ms. Surman he was not pursuing a criminal charge in connection with a complaint by Patricia Adams. Thereafter, Mr. Cucu admitted to Violation Number 1, a technical violation for travelling outside the district without permission. He also admitted to the underlying conduct of sending a text message to Patricia Adams without admitting to the violation itself. Mr. Cucu was then released from custody (with no objection by the Government) and was notified of the disposition hearing scheduled for May 2, 2017, at 2:00 p.m.

To put some context to the matter before the Court, only weeks before Mr. Cucu was sentenced, his wife Dawn filed for divorce which was finalized while he was in prison. When he was released in 2016, he came back to a reality where he had to deal with a broken family, revive relationships with his two daughters, and face serious financial challenges of a convicted felon. He was also attempting to resurrect some kind of career, pay alimony and child support, and struggle to deal with longstanding depression. To say the least, there were tensions and bitterness, leading to a breakdown in communications and cooperation, especially since he was unable to cover the substantial child support payments. These matters are currently the subject of motions in the Domestic Relations Court. Nonetheless he enjoys excellent relations with his children, and despite some concerns expressed by his ex-wife, there is no evidence during the last year that the children's wellbeing has been jeopardized by Mr. Cucu.

At the sentencing hearing, the Court was extremely concerned about Mr. Cucu's use of alcohol and in particular the fact that he had a number of OVI offenses, one which occurred only a week or so before the sentencing hearing. Clearly his battle with alcoholism, along with his mental health issues, played a major role in his behavior leading to the charged offenses and the breakup of his marriage. But while there may be concern that Mr. Cucu may be using again, there is no proof that he has, nor has he tested positive for any illicit substances during his period of supervised release. While his post incarceration experiences have involved adjustment issues, there are mitigating factors related to Violation No. 1, the underlying conduct of the police report involving the text message to his ex-mother in law, and other matters raised in the report. They will be addressed individually below.

II. THE TRAVEL OUTSIDE THE DISTRICT ON FEBRUARY 18, 2017

Mr. Cucu admits that he travelled outside the district as alleged. On that day, his girlfriend, Oksana Buchovska, offered to take him and his children on a surprise prepaid ski trip. Mr. Cucu had no reason to believe that they would be going to a ski slope outside of the district until he learned they were going to Peek n Peak, in Western NY, less than two hours from Lake County. They were well on their way to the resort and he made the decision not to turn back as the children would be disappointed. It was a day trip and he returned the girls home on time. Dawn Cucu saw the lift tickets and a cell phone photo from one of the girls and decided to send the photo to Lisa Surman. Mr. Cucu acknowledges his poor judgment, and accepts responsibility for this violation.

III. THE TEXT TO PATRICIA ADAMS ON MARCH 18, 2017

As indicated, the Government removed the law violation in connection with this text. Mr. Cucu acknowledges he sent the text to his mother in law, but denies it was his intent to threaten her, harass her or cause her any harm. He was upset after he learned that Ms. Adams and Dawn were sending information, including various photographs, to Lisa Surman, and he reacted with this text. His daughter, N.C., told him that she saw her photos go from her I-Pad to Lisa Surman. He was upset and was simply trying to express that she should not be involved with his supervised release, i.e. - keep her nose out of his business – a common expression. Clearly, his words of choice were poor, and he understands he should not have texted her and cause her any alarm. He was just frustrated with what he believed to be interference and accusations, some unfounded, to hurt him while he was on supervised release.

Mr. Cucu has never been violent or threatened violence toward anyone, especially his ex-wife or her mother. He has no violent criminal history.

IV. DRUG/ALCOHOL/MENTAL AFTERCARE

There is some reference in the Violation Report regarding the termination of his counseling at the end of November, 2016. Attached hereto as Exhibit A is a letter from Gary M. Echt, Director of Advanced Psychotherapy Services. For a number of months he complied with the counseling, but at some point there was a belief that Mr. Cucu was not benefitting from the counseling so there was a termination. However, part of the problem was that the therapist he was seeing left the agency and there was a miscommunication from their end and "not from him". The agency concurred with the discontinuation of counseling, but Mr. Cucu continued with the urine testing. He has not had any positive results for alcohol or drug tests.

V. NO ALCOHOL USE

The Violation Report claims Mr. Cucu "ingested" alcohol. However, a review of the photos provided to counsel does not show Mr. Cucu drinking alcohol. He was at a restaurant in Los Angeles with others (potential business associates). But while others in the group might have been drinking, he wasn't. He was invited to "Laurel Hardware" a restaurant and lounge, and didn't feel it would be a problem going, since he was in California to pursue potential employment opportunities. This trip occurred with permission in September, 2016 and generated no report of violations. It was because of this trip that Mr. Cucu was denied further travel outside the district, and led to violation number 1.

VI. CONCLUSION

Mr. Cucu has admitted his responsibility for the violation, as well as the underlying conduct regarding the text message. He was looking forward to moving on with his life without supervision, but now, only two days from what he thought would be termination of supervision, he faces his first violation report. His adjustment to the emotional strains and difficult circumstances after his release from prison have posed challenges for him. While supervision is geared to rehabilitation and to assist the offender to adjust to the world outside prison while avoiding temptations to re-offend, he still struggles with life challenges. Mr. Cucu is genuinely a good and capable person who wants to better himself, be the best father he can be, generate a more amiable relationship with Dawn, and be able to provide the kind of economic security his family enjoyed before he made terrible decisions leading to his offense conduct. He has many opportunities to develop his career but his field of software sales requires travel, and the absence of being on community control sanctions. It is hoped the Court fashions a disposition, possibly termination of supervised release, so he can be able to fulfill his obligations to himself and his family.

Respectfully submitted,

FRIEDMAN & GILBERT

/s/ Terry H. Gilbert
TERRY H. GILBERT (0021948)
Attorney for Defendant
55 Public Square, Suite 1055
Cleveland, OH 44113-1901
Telephone: (216) 241-1430
Facsimile: (216) 621-0427
E-Mail: tgilbert@f-glaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2017, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Terry H. Gilbert
TERRY H. GILBERT
Attorney for Defendant